IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 8059 of 2005

Ramasare Ramdhulari Pardeshi ..Petitioner

vs.

1. Kalyan Municipal Corporation and anor. ..Respondents

Shri A.L.Kumar for petitioner.
Shri A.S.Rao for respondent no.1.

CORAM: S.B.MHASE J.
14th March, 2006

P.C.

1. Rule. Returnable forthwith.

2. The development plan has already been produced, however, witness Shri Jawade in his cross examination on page 20 stated that the map Exh.89 is the xerox copy and is not readable. He has further stated that he cannot say whether it is the copy of the Development Plan. In view of this the petitioner has produced the colour map which is certified copy of the development plan obtained from the department and, therefore, he wanted to confront it to the said witness so as to have the evidential value and to get the appropriate explanation in respect of the subject matter in controversy. He, therefore, filed application below Exh.40 which was rejected by the Court on the technical ground

that Shri Jawade was examined thoroughly. The said cross examination was in absence of the documents which is now intended to be confronted to him. No doubt, it is at a late stage. The petitioner should have been diligent in producing the said map instead of producing the xerox copy thereof. Therefore, in the interest of justice and for a fair play and to afford an opportunity to establish the case on the basis of a public document application below Exh.40 ought to have been allowed. It is, therefore, appropriate to recall the witness even though at a belated stage, however, on imposition of cost. Hence, application below Exh.40 in C.A.No.520 of 1996 is allowed. The impugned order is set aside aside. The petitioner shall pay cost of Rs.1000/- to respondents.

. Rule is made absolute accordingly.

(S.B.MHASE J.)